

Thomas Jefferson to Albert Gallatin, October 13, 1802, from The Works of Thomas Jefferson in Twelve Volumes. Federal Edition. Collected and Edited by Paul Leicester Ford.

TO THE SECRETARY OF THE TREASURY J. MSS. (ALBERT GALLATIN.)

Oct. 13, 1802.

You know my doubts, or rather convictions, about the unconstitutionality of the act for building piers in the Delaware, and the fears that it will lead to a bottomless expense, & to the greatest abuses. There is, however, one intention of which the act is susceptible, & which will bring it within the Constitution; and we ought always to presume that the real intention which is alone consistent with the Constitution. Altho' the power to regulate commerce does not give a power to build piers, wharves, open ports, clear the beds of rivers, dig canals, build warehouses, build manufacturing machines, set up manufactories, cultivate the earth, to all of which the power would go if it went to the first, yet a power to provide and maintain a navy, is a power to provide receptacles for it, and places to cover & preserve it. In choosing the places where this money should be laid out, I should be much disposed, as far as contracts will permit, to confine it to such place or places as the ships of war may lie at, and be protected from ice; & I should be for stating this in a message to Congress, in order to prevent the effect of the present example. This act has been built on the exercise of the power of building light houses, as a regulation of commerce. But I well remember the opposition, on this very ground, to the first act for building a light house. The utility of the thing has sanctioned the infraction. But if on that infraction we build a 2d, on that 2d a 3d, &c., any one of the powers in the Constitution may be made to comprehend

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every power of government. Will you read the enclosed letters on the subject of New Orleans, and think what we can do or propose in the case?